



September 23, 1999

Ms. Katherine Cary
Public Information Coordinator
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR99-2687

Dear Ms. Cary:

You have asked whether certain information is subject to required public disclosure under the Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 127515.

The Office of the Attorney General (the "OAG") received from the Lipscomb County Sheriff's Office a request for "a copy of the psychological exam" on a specified individual. In response to the request, you submit to this office for review a memorandum and a representative sample of the responsive information from the Crime Victims' Compensation Division of the Office of the Attorney General (the "CVC"). Through the submitted memorandum, CVC asserts that the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 611.002 of the Health and Safety Code. We have considered the exception you claim and reviewed the submitted information.¹

Section 552.101 protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 also encompasses information protected by other statutes. We note that Texas law prohibits the public disclosure of psychological records. Chapter 611 of the Health and Safety Code provides for the confidentiality of mental health records created or maintained by a mental health professional. Communications between a patient and a mental health professional and records of the identity, diagnosis, evaluation, or treatment of a patient that are created or maintained by a mental health professional are confidential. Health & Safety Code § 611.002(a). Based on the records at issue, we conclude that the information must be withheld from the public pursuant to section 552.101 in conjunction with section 611.002 of the Health and Safety Code. *See Gov't Code § 552.352 (criminal penalties for release of confidential information).*

¹You have also submitted to this office information that apparently was sent for informational purposes only. In this ruling, we do not address the public disclosure of that information.

We note that in this instance, the requestor is a representative of the Lipscomb County Sheriff's Office, who seeks the requested information apparently for an official purpose. Section 611.004(a) provides for specific situations where mental health information may be disclosed to other parties. *See* Health & Safety Code § 611.004(b), (d). However, based on the request letter, we are unable to determine whether section 611.004(a) authorizes disclosure of the records at issue. Since chapter 611 of the Health and Safety Code provides for the confidentiality of mental health records and certain statutory access requirements, we advise the OAG that the mental health records may only be released as provided by the statute.²

We are resolving this matter with an informal letter ruling rather than with a published open records decision.³ This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad
Assistant Attorney General
Open Records Division

SH/nc

Ref.: ID# 127515

encl. Submitted information

²We are not aware of a statutory duty or right by the Lipscomb County Sheriff's Office to obtain this information. Gov't Code § 552.007; Attorney General Opinion H-683 (1975).

³We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

cc: Mr. Don Bolar
Chief Deputy
Lipscomb County Sheriff's Office
Box 120
Lipscomb, Texas 79056
(w/o enclosures)